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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 21st December 2004:—

BILL No. 101 OF 2004

A Bill to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by the Houses of the Legislatures of all the States, except the Legislature of the State of Jammu and Kashmir, to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Government Securities Act, 2004.

(2) This Act applies to Government securities created and issued whether before or after the commencement of this Act by the Central Government or a State Government.

Short title,
application and
commencement.

(3) It applies in the first instance to whole of the States, except the State of Jammu and Kashmir, and to all the Union territories and it shall also apply to the State of Jammu and Kashmir which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(4) It shall come into force in all the States, except the State of Jammu and Kashmir, and in the Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint and in the State of Jammu and Kashmir which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, means the date on which this Act, comes into force in such State or Union territory.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "agent" means, a scheduled bank within the meaning of clause (e) of section 2 of the Reserve Bank of India Act, 1934, or any other person specified as such; 2 of 1934.

(b) "Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(c) "bond ledger account" means an account with the bank or an agent in which the Government securities are held in a dematerialised form at the credit of the holder;

(d) "constituents' subsidiary general ledger account" means a subsidiary general ledger account opened and maintained with the Bank by an agent on behalf of the constituents of such agent;

(e) "Government", in relation to any Government security, means the Central or State Government issuing the security;

(f) "Government security" means a security created and issued by the Government for the purpose of raising a public loan or for any other purpose as may be notified by the Government in the Official Gazette and having one of the forms mentioned in section 3;

(g) "prescribed" means prescribed by regulations made under this Act;

(h) "promissory note" includes a treasury bill;

(i) "specified" means specified by the Bank in the Official Gazette.

Forms of Government securities.

3. A Government security may, subject to such terms and conditions as may be specified, be in such forms as may be prescribed or in one of the following forms, namely:—

(i) a Government promissory note payable to or to the order of a certain persons;

or

(ii) a bearer bond payable to bearer; or

(iii) a stock; or

(iv) a bond held in a bond ledger account.

Explanation.—For the purpose of this section, "stock" means a Government security,—

(i) registered in the books of the Bank for which a stock certificate is issued; or

(ii) held at the credit of the holder in the subsidiary general ledger account including the constituents subsidiary general ledger account maintained in the books of the Bank,

and transferable by registration in the books of the Bank.

Subsidiary general ledger account.

4. (1) A subsidiary general ledger account including a constituents' subsidiary general ledger account and a bond ledger account may be opened and maintained by the bank subject to such conditions and restrictions as may be specified and in such form and on payment of such fee as may be prescribed.

45 of 1988.

(2) Notwithstanding anything contained in the *Benami Transactions (Prohibition) Act, 1988*, or any other law for the time being in force, the Government securities may be held on behalf of a constituent in a constituents' subsidiary general ledger account under sub-section (1) and the holder of such account shall be deemed to be the holder of the securities held in that account:

Provided that the constituent as a beneficial owner of the Government security shall be entitled to claim from the holder all the benefits and be subjected to all the liabilities in respect of the Government securities held in the constituents' subsidiary general ledger account.

(3) The holder of a constituents' subsidiary general ledger account shall maintain such records and adopt such procedure for safeguarding the interests of the constituents as may be specified.

5. (1) No transfer of a Government security shall be valid if it does not purport to convey the full title to the security.

Transfer of
Government
securities.

(2) The transfer of the Government securities shall be made in such form and in such manner as may be prescribed.

(3) Any document relating to a Government security or any endorsement on a promissory note issued by the Government may, on the demand of a person who for any reason is unable to write, shall be executed on his behalf in such manner as may be prescribed.

(4) Nothing in this section shall affect any order made by the Bank under this Act, or any order made by a Court upon the Bank.

6. (1) In the case of any public office to which the Government may, by notification in the Official Gazette, declare this sub-section to apply, a Government security may be held in the name of the office.

Holding of
Government
securities by
holders of
public offices.

(2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office transfers to a party not being his successor in office where a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner laid down in section 5.

(4) Where the holder of the office is temporarily absent for more than a fortnight from his office for any reason, he may authorise in writing such other person, who would be in charge of this office during the period of such absence, to effect transfer of the Government securities.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

7. (1) Subject to the provisions of sub-sections (2) and (3), if on the death of a sole holder or death of all the joint holders of a Government security there is no nomination in force, the executors or administrators of the deceased sole holder or all the deceased joint holders, as the case may be, or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 shall be the only person who may be recognised by the Bank as having any title to the Government security.

Recognition of
title to the
Government
security of a
deceased sole
holder or joint
holders.

39 of 1925.

(2) Nothing contained in this section shall bar the recognition by the Bank of any person as having a title to a Government security on the basis of a decree, order or direction passed by a competent court declaring the person as having title to the Government security or appointing a receiver to take possession of a security or on the basis of a certificate issued or order passed by any other authority who might have been empowered under a statute to confer on any such person a title to the Government security or on the basis of such other documents as may be prescribed.

(3) Notwithstanding anything contained in this section or in any other law for the time being in force, where the outstanding value of Government security held by a deceased sole holder or deceased joint holders, as the case may be, does not exceed an amount of rupees one lakh or such higher amount not exceeding rupees one crore as may be fixed by the Central Government by notification in the Official Gazette from time to time, the Bank may recognise a person as having title to such Government security of the deceased sole holder or deceased joint holders in such manner and subject to such conditions as may be prescribed.

Right of
survivors of
joint holders or
several payees.

8. Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 9 of 1872. and subject to the provisions of sections 7 and 10,—

(a) when a Government security is held by two or more persons jointly, and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those persons; and

(b) when a Government security is payable to two or more persons severally and either or any of them dies, the Government security shall be payable to the survivor or survivors of those persons or to the representative of the deceased or to any one of them:

Provided that nothing contained in this section shall affect any claim which any representative of a deceased joint holder or deceased holders of a Government security or a surviving joint holder or holders of a Government security, as the case may be, may have against the survivor or survivors or representatives under or in respect of any Government security to which this section applies.

Explanation.—For the purposes of this section, a body incorporated or deemed to be incorporated under the Companies Act, 1956, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved. 1 of 1956. 2 of 1912.

Nomination by
holders of the
Government
securities.

9. (1) Notwithstanding anything contained in sections 7 and 8 or any other law for the time being in force, except the provisions of sub-section (2),—

(a) where a Government security other than in the form of promissory note or bearer bond is held by a person in his name or jointly with any other name or names, as the case may be, the sole holder or all the joint holders of the Government security together may nominate one or more persons in such form and in such manner as may be prescribed, who in the event of the death of the sole holder or the death of all the joint holders, as the case may be, would become entitled to the Government security and to payment thereon to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner;

(b) where a nomination in respect of a Government security has been made in favour of two or more nominees and either or any of them is dead, the surviving nominee or nominees, as the case may be, shall be entitled to the Government security and payment thereon;

(c) where the nominee is a minor, it shall be lawful for the sole holder or all the joint holders of a Government security, as the case may be, to appoint in the prescribed manner any person in whom the Government security would be deemed to have vested in the event of death of such holder or joint holders of the Government security during the minority of the nominee;

(d) the recognition of right and claim of the nominee or nominees to the Government security held by a sole holder or joint holders, as the case may be, and any payment made by the Government or the Bank to the nominee or nominees shall constitute a full discharge and shall absolve the Government or the Bank of its liability in respect of the said Government security.

(2) Any nomination or appointment made under sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, if all the nominees predecease the holder or joint holders of the Government security making the nomination.

(3) Where the amount due for the time being on a Government security is payable to two or more nominees and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those nominees and the amount for the time being due thereon shall be paid accordingly.

(4) A transfer of a Government security made in accordance with sub-section (2) of section 5 shall automatically cancel the nomination previously made:

Provided that where a Government security is in the possession of a person either as a pledge or by way of security for any purpose, such possession shall not have the effect of cancelling the nomination, but the right of the nominee shall be subject to the right of the person so possessing it.

(5) The Government may, on the recommendation of the Bank, by notification in the Official Gazette extend the facility of nomination to any Government security as may be specified therein.

(6) Nothing contained in sub-section (1) shall affect the right or claim which any person may have against the person whose right and title to a Government security is recognised by the Government or the Bank or to whom the payment of the amount due on the Government security is made by the Government or the Bank under sub-section (1).

(7) No notice of any claim of any person, other than the person or persons in whose name a Government security is held or the nominees thereof, shall be receivable by the Bank or Government, nor shall the Bank or Government be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such Government security is produced before the Bank or the Government, the Bank or the Government shall take due note of such decree, order, certificate or other authority.

10. (1) Where any Government security is held on behalf of a minor the payment of the same for the time being due on a Government security either by way of outstanding principal or interest thereon may be made to the father or mother of such minor and where neither parent is alive or where the living parents are or only living parent is incapable of action, a person entitled under the law for the time being in force to have care of the property of the minor.

Government securities belonging to minor or an insane person.

(2) When a Government security belongs to a minor or a person who is insane and incapable of managing his affairs and the outstanding principal value of the Government security does not in the aggregate exceed rupees one lakh or such higher amount not exceeding rupees one crore as the Central Government may, by a notification in the Official Gazette from time to time, fix, the Bank may make such order as it thinks fit for the vesting of such Government security in such person as it considers represents the minor or insane person.

11. (1) If the person entitled to a Government security applies to the Bank alleging that the Government security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the Government security, and subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate Government security to the applicant.

Issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution.

(2) If the person entitled to a Government security applies to the Bank to have the Government security converted into a Government security of another form, or into a Government security issued in connection with another loan or to have it consolidated with other like Government securities, or to have it sub-divided, or to have it renewed, stripped or

reconstituted, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the Government security and order the issue of a new Government security or Government securities.

Explanation.—A Government security may be stripped separately for interest and principal or reconstituted on the application of the holder subject to such terms and conditions as may be specified.

(3) The person to whom a duplicate Government security or a new Government security is issued under this section shall be deemed for the purposes of section 18 to have been recognised by the Bank as the holder of the Government security; and a duplicate Government security or new Government security so issued to any person shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him:

Provided that the issue of new security under this section shall not affect the interest of third parties in whose favour a charge or other interest was lawfully created and was subsisting at the time of issue of the new security.

12. (1) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine, in accordance with such regulations as may be made, the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce and the District Magistrate so requested may either himself record, or may direct any Magistrate of the first class subordinate to him or any Magistrate of the second class subordinate to him and empowered in this behalf by general or special order of the State Government to record the evidence, and shall forward a copy thereof to the Bank.

(3) For the purpose of making a vesting order under this Act, the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(4) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

13. Notwithstanding that as a matter of convenience, the Government may have arranged for payments on a Government security to be made elsewhere than in India, the rights of all persons in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of India.

14. Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the Government security or postpone the making of any order under section 7, section 10, section 11 or section 12 or the registration of any transfer of the Government security, as the case may be, until the vesting order has been made.

15. (1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.

Summary
determination
by the Bank of
title to
Government
security in case
of dispute.

Law applicable
in regard to
Government
securities.

Postponement
of payments
and registration
of transfers
pending the
making of a
vesting order.

Power of Bank
to require
bonds.

16. Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the Official Gazette or the Official Gazette of a State, according as the notice relates to a Government security, issued by the Central Government or a State Government, and on such publication shall be deemed to have been delivered to all persons for whom it is intended.

Publication of notices in Official Gazette.

17. (1) The Bank shall, while making a vesting order under section 7, section 10, section 11 or section 12, follow such procedure as may be prescribed.

Procedure and scope of vesting order.

(2) An order made by the Bank under this Act may either confer full title to a Government security or a title only to the accrued and accruing interest on the Government security pending a further order vesting full title.

18. No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security; and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to his personal liability to the rightful owner of the security for money had and received on his account.

Legal effect of orders made by the Bank.

19. Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in India an order to stay the making of such order, the Bank shall either—

Stay of proceedings on order of Court.

(a) hold the security together with any interest unpaid or accruing thereon until further orders of the Court are received; or

(b) apply to the Court to have the security transferred to the Official Trustees appointed for the State in which such Court is situated, pending the disposal of the proceedings before the Court.

20. Where the Bank contemplates making an order under this Act vesting a Government security in any person, the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

Cancellation by the Bank of vesting proceedings.

21. Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.

Discharge in respect of interest on Government securities.

22. The Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment, an order of a Court in India has been served on the Government restraining it from making payment.

Discharge in respect of bearer bonds.

23. Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable.

Period of limitation of Government's liability in respect of interest.

24. No person shall be entitled to inspect, or to receive information derived from any Government security in the possession or custody of the Government or from any book, register or other document kept or maintained by or on behalf of the Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

Inspection of documents.

Micro films,
facsimile
copies of
documents,
magnetic tapes
and computer
print outs as
documents of
evidence.

25. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, magnetic tape or any other form of mechanical or electronic data retrieval mechanism (hereinafter referred to a computer print out), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question,

shall be deemed to be also a document for the purposes of this Act and the regulations made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer print out shall be the following, namely—

(a) the computer print out containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceeding under this Act and the regulations made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in the Bank in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,—

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.—For the purposes of this section,—

(a) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes;

(b) "computer print out" shall include ledgers, day-books, account books and other records maintained in the ordinary course of business of the Bank; and

(c) any reference to information being derived from other information shall be a reference its being derived therefrom by calculation, comparison of any other process.

1 of 1872.
5 of 1908.

26. For the purposes of section 124 of the Indian Evidence Act, 1872, the provisions of Part IV of the Code of Civil Procedure, 1908 relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

The Bank and its officers to be deemed public officers.

27. Where a subsidiary general ledger account is opened by the Bank in favour of any holder of a Government security in terms of section 4 and,—

Misuse of subsidiary general ledger account facility.

(a) it comes to the notice of the Bank that the said account is being operated contrary to the terms and conditions subject to which the account was opened; or

(b) the subsidiary general ledger account transfer form has bounced due to insufficiency of Government security or funds; or

(c) the Bank is of opinion that the account is being operated contrary to the banking practice or in a manner prejudicial to the interests of the holders of Government securities in general; or

(d) the subsidiary general ledger account is being misused in any manner,

the Bank may, by order in writing, after giving an opportunity of being heard debar the holder of such account from trading with the subsidiary general ledger account facility temporarily or permanently as it deems fit.

Pledge,
hypothecation
or lien.

28. (1) Subject to such terms and conditions as may be prescribed, the holder of a Government security may create a pledge or hypothecation or lien in respect of such security.

(2) On receipt of notice of pledge or hypothecation or lien from the holder of the Government security, the Bank or any agent maintaining the account in respect of such security shall make necessary entry in its record and such entry shall be evidence of the pledge, hypothecation or lien thereof, as the case may be.

Powers to call
for
information,
cause
inspection and
issue of
directions.

29. (1) The Bank may at any time, for the purposes of this Act, call for such information as it deems necessary in relation to a Government security from any agent, or holder of subsidiary general ledger account including constituents' subsidiary general ledger account and cause an inspection or scrutiny to be made by one or more of its officers or other persons, of any agent or holder of a subsidiary general ledger account including constituents' subsidiary general ledger account.

(2) The Bank may, if it considers necessary so to do, issue such directions as it thinks fit, in relation to a Government security,—

(i) to the holders of the subsidiary general ledger accounts including constituents' subsidiary general ledger account;

(ii) to the agents maintaining bond ledger account; and

(iii) to any other person dealing with the Government securities,

for carrying out the purposes of this Act.

Contravention
and penalties.

30. (1) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of any offence under sub-section (1) except on the complaint of the Bank.

(3) Without prejudice to any other action which the Bank may deem fit to take, the Bank, after giving a reasonable opportunity of being heard, may impose on any person who contravenes any provision of this Act, or contravenes any regulation, notification or direction issued under this Act, or violates the terms and conditions for opening and maintenance of a subsidiary general ledger account, including Constituents' subsidiary general ledger account, a penalty, not exceeding five lakh rupees and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after first day during which the contravention continues.

Certain laws
not to apply to
Government
securities.

31. (1) The Public Debt Act, 1944 shall cease to apply to the Government securities to which this Act applies and to all matters for which provisions have been made by this Act. 18 of 1944.

(2) Notwithstanding such cessation anything done or any action taken in the exercise of any power conferred by or under that Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force at all material times.

(3) Nothing contained in the Depositories Act, 1996 or the regulations made thereunder shall apply to Government securities covered by this Act unless an agreement is executed to the contrary by any depository under the Depositories Act, 1996 with the Government or the Bank, as the case may be. 22 of 1996.

Power to make
regulations.

32. (1) The Bank may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

(a) the form in which and the terms and conditions subject to which the Government securities may be issued under section 3;

(b) the form in which and the fee to be charged for opening and maintenance of subsidiary general ledger account including constituents' subsidiary general ledger account and bond ledger account by the Bank under sub-section (1) of section 4;

(c) the form and manner in which Government securities shall be transferred under sub-section (2) of section 5 and the manner in which any document relating to any Government security or any endorsement on a promissory note may be executed on behalf of a person who is unable to write under sub-section (3) of that section.

(d) the documents to be produced for recognition of title to the Government security of a deceased sole holder or all deceased joint holders under sub-section (2) of section 7 and the manner in which and the conditions subject to which the Bank may recognise title to a Government security under sub-section (3) of that section;

(e) the form and the manner in which a nomination may be made, varied or cancelled and the manner in which any person may be appointed in whom the Government security would be deemed to have vested in the event of death of holder or joint holders of Government security during the minority of a nominee under section 9;

(f) the conditions governing the issue of duplicate Government securities and the fees to be paid therefor under section 11;

(g) the manner in which the Bank may determine title to a Government security under section 12;

(h) the form of bond under sub-section (1) of section 15;

(i) the procedure for making vesting order referred to in sub-section (1) of section 17;

(j) the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under section 24;

(k) the terms and conditions subject to which pledge or hypothecation or lien be created under sub-section (1) of section 28.

(3) Every regulation made by the Bank under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

33. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever, necessary, be constructed as including a reference to the corresponding law, if any, in force in that State.

Construction of references to laws not in force in Jammu and Kashmir.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and
saving.

35. (1) The Indian Securities Act, 1920 is hereby repealed.

10 of 1920.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The law relating to Government Securities and their management by the Reserve Bank of India is laid down in the Public Debt Act, 1944 (18 of 1944). Over the years, a number of rigidities and deficiencies have been noticed in the Public Debt Act, 1944 and the rules framed thereunder and some of the provisions had ceased to be relevant in the present context. The Reserve Bank of India, the agency banks and the treasuries were also handicapped in improving customer services, especially in the wake of very substantial increase in the volume of public debt.

2. The Reserve Bank of India constituted a Committee consisting of representatives of the Reserve Bank of India, the Ministry of Finance, the Ministry of Law and Justice and the State Governments of Madhya Pradesh, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal for a thorough and comprehensive review of the entire gamut of Government securities management with a view to simplifying and rationalizing the rules and procedures. The Committee made certain recommendations requiring amendment to the Public Debt Act, 1944.

3. In view of the various amendments that might be required to be carried out in the Public Debt Act, 1944, it was considered desirable to enact a new legislation in its place and to repeal the Indian Securities Act, 1920 (10 of 1920).

4. The salient features of the proposed Bill are to—

(a) provide for opening and maintaining of subsidiary general ledger account, constituent's subsidiary general ledger account and bond ledger account with the Reserve Bank of India subject to such conditions and restrictions as may be specified and in such form and on payment of such fee as may be prescribed;

(b) provide for the Reserve Bank of India to prescribe the form for transferring Government securities;

(c) provide for holding of Government promissory notes by Trusts;

(d) provide for summary procedure for recognizing title for Government Securities up to rupees one lakh with enabling power to the Central Government to enhance the said limit up to rupees one crore and enhancing of the monetary limit in other related circumstances also;

(e) provide for micro films, facsimile copies of documents, magnetic tapes and computer print outs to be admissible as evidence;

(f) provide for suspension of the holders of subsidiary general ledger account from trading with the facility of that account in the event of misuse of the said facility;

(g) enable creation of pledge, hypothecation or lien in respect of Government securities;

(h) empower the Reserve Bank of India to call for information, cause inspection and issue directions; and

(i) empower the Reserve Bank of India to make regulations with the previous approval of the Central Government for carrying out the purposes of the Bill.

5. The Bill includes provisions to remove existing rigidities and deficiencies in the Public Debt Act, 1944 and to streamline some of the existing provisions for better management of the Government securities.

6. The Bill seeks to achieve the above objects.

Notes on Clauses

Clause 1 of the Bill, provides for the name of the Act, its application and the commencement thereof.

Clause 2 seeks to define the various expressions used in the Bill.

Clause 3 seeks to provide for different forms of Government Securities.

Clause 4 seeks to provide for the opening and maintenance of subsidiary general ledger account, constituent's subsidiary general ledger account and bond ledger account by the Reserve Bank.

Clause 5 seeks to provide for the Transfer of Government securities and the form to be prescribed by the Reserve Bank.

Clause 6 seeks to provide for the holding of Government securities by holders of public offices, transfer of succeeding holders of such offices and transfer to a party not being a successor to his office.

Clause 7 seeks to provide for the recognition of title to the Government security on the death of the sole-holder or a joint holder of the security on the basis of the order passed *inter alia*, by courts and other authorities.

Clause 8 seeks to provide for vesting of the title to Government security in the survivors of joint holders in the case of death of any of the joint holder and for payment when the Government security is payable to two or more persons severally.

Clause 9 seeks to provide for the nomination in respect of Government securities.

Clause 10 seeks to provide for payment in respect of Government security held on behalf of minor to the father or mother of such minor or where neither parent is alive or where the living parents are or only living parent is incapable of acting, to a person entitled under the law for the time being in force to have care of the property of the minor. It also seeks to empower the Reserve Bank to make an order for vesting of such Government security in such person as it considers represents the minor or insane person, when a Government security belongs to a minor or a person who is insane and incapable of managing his affairs and when the outstanding principal value of the Government security does not in the aggregate exceed rupees one lakh or such higher amount, not exceeding rupees one crore as the Central Government may, by notification in the Official Gazette, from time to time, fix.

Clause 11 seeks to provide for issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution of Government security.

Clause 12 seeks to lay down the procedure for summary determination by the Reserve Bank of title to Government security in case of dispute.

Clause 13 seeks to lay down the law applicable in regard to Government securities.

Clause 14 seeks to provide for suspension or postponement of, or payment and registration of transfer, pending the making of a vesting order.

Clause 15 seeks to empower the Reserve Bank to require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security.

Clause 16 seeks to provide for the publication of notice, in Official Gazette or Official Gazette of a State.

Clause 17 seeks to provide for the procedure for making the vesting order to be prescribed by the Reserve Bank and the scope of such order.

Clause 18 seeks to lay down that legal recognition by the Reserve Bank of any person as holder of Government security or any order made by the Reserve Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to the personal liability to the rightful owner of the security for money had and received on his account.

Clause 19 seeks to lay down the steps to be taken by the Reserve Bank on receipt of an order of stay from a court.

Clause 20 seeks to provide for cancellation of vesting proceedings by the Reserve Bank and proceeding a new.

Clause 21 seeks to provide for discharge of the Reserve Bank in respect of interest on Government securities after the maturity thereof.

Clause 22 seeks to provide for discharge in respect of bearer bonds on payment to the holder on presentation.

Clause 23 seeks to lay down the period of limitation for the liability of the Government in respect of interest payable on the Government security.

Clause 24 seeks to lay down that no person shall be entitled for inspection of documents in relation to Government securities except to the extent prescribed by the Reserve Bank.

Clause 25 seeks to lay down that micro films, facsimile copies of documents, magnetic tapes and computer print outs are documents and may be admitted in evidence.

Clause 26 seeks to lay down that the Reserve Bank and its officers are to be deemed to be public officers.

Clause 27 seeks to empower the Reserve Bank of debar the holder of Subsidiary general ledger account from trading with the subsidiary general ledger account facility temporarily or permanently.

Clause 28 seeks to provide for creation of pledge, hypothecation of lien in respect of Government security.

Clause 29 seeks to empower the Reserve Bank to call for any information in relation to Government security, to cause inspection of the offices of any agent or holder of subsidiary general ledger account including constituent subsidiary ledger account and to issue directions regarding Government security.

Clause 30 seeks to provide for punishment with imprisonment or fine for making false statements in the course of an inquiry, etc., imposition of penalties by the Reserve Bank for contravention of the provisions of the Act, regulation, notification, etc.

Clause 31 seeks to lay down that the Public Debt Act, 1944 (18 of 1944) and the Depositories Act, 1996 (22 of 1996) shall not apply to Government securities.

Clause 32 seeks to empower the Reserve Bank to make regulations with the previous approval of the Central Government to carry out the purposes of this Act.

Clause 33 seeks to provide that any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever necessary, be construed as including a reference to the corresponding law if any, in force in that State.

Clause 34 seeks to empower the Central Government to make order for removing any difficulty, which may arise in giving effect to the provisions of this Act and every such order made under this clause to be laid before each House of Parliament.

Clause 35 seeks to repeal the Indian Securities Act, 1920 (10 of 1920) and to save any action taken thereunder.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill seeks to empower the Reserve Bank of India to make regulations with the previous approval of the Central Government for carrying out the purpose of this Act. The matters in respect of which such regulations may be made relate, *inter alia*, to the form in which and the terms and conditions subject to which the Government Securities may be issued, the form of and the fee to be charged for opening and maintenance of, subsidiary general ledger account including constituent's subsidiary general ledger account and bond ledger account, the form and manner in which Government securities shall be transferred, the manner in which any document relating to any Government security shall be transferred, the manner in which any document relating to any Government security or any endorsement on a promissory note may be executed on behalf of a person who is unable to write, the documents to be produced for recognition of title to the Government security of a deceased sole holder or all deceased joint holders, the manner in which and the conditions subject to which the Reserve Bank of India may recognize title to a Government security, the form and the manner in which a nomination may be made, varied or cancelled and the manner in which any person may be appointed in whom the government security would be deemed to have vested in the event of death of holder or joint holders of Government security during the minority of a nominee, the fee for and conditions governing the issue of duplicate Government securities, the manner in which the Bank may determine title to a Government security, the form of bond that may be required to be executed by the person in whose favour an order is to be made by the Bank, the procedure for making vesting order, the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information there from may be given, and the terms and conditions subject to which pledge or hypothecation or lien may be created.

2. Clause 34 of the Bill relates to power to remove difficulties. The provisions of the said clause empower the Central Government to make orders for removing any difficulty, which may be arise in giving effect to the provisions of the proposed legislation. It is also being provided that no such order shall be made after the expiration of two years from the date of commencements of the proposed legislation and every such order shall be laid before each House of Parliament.

3. The matter in respect of which the regulations may be made under Clause 32 of the Bill are all matters of procedure and administrative details and it is not practicable to provide for them in the proposed legislation itself. The regulations have to be laid before Parliament. The delegation of the legislative power is of a normal character.

BILL NO. 106 OF 2004

A Bill to provide for the enhancement of livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Rural Employment Guarantee Act, 2004.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "adult" means a person who has completed his eighteenth year of age;
- (b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the Scheme;
- (c) "Block" means a community development area within a district comprising a group of Gram Panchayats;
- (d) "Central Council" means the Central Employment Guarantee Council constituted under sub-section (1) of section 10;
- (e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of section 14 for implementation of the Scheme in a district;
- (f) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;
- (g) "implementing agency" includes any department of the Central Government or a State Government, a Zila Parishad, Panchayat Samiti, Gram Panchayat or any local authority or Government undertaking or non-governmental organization authorized by the Central Government or the State Government to undertake the implementation of any work taken up under a Scheme;
- (h) "minimum wage", in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area; 11 of 1948.
- (i) "National Fund" means the National Employment Guarantee Fund established under sub-section (1) of section 20;
- (j) "notification" means a notification published in the Official Gazette;
- (k) "poor household" means a household living, during the relevant financial year, below the poverty line and includes the households of all primitive tribal groups as approved, by notification, by the Ministry of the Central Government dealing with tribal affairs;
- (l) "preferred work" means any work which is taken up for implementation on a priority basis under a Scheme;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "Programme Officer" means an officer appointed under sub-section (1) of section 15 for implementing the Scheme in a Block;
- (o) "project" means any work taken up under a Scheme for the purpose of providing employment to the applicants;
- (p) "rural area" means any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force;
- (q) "Scheme" means a Scheme notified by the State Government under sub-section (1) of section 4;
- (r) "State Council" means the State Employment Guarantee Council constituted under sub-section (1) of section 12;
- (s) "unskilled manual work" means any physical work which any adult person is capable of doing without any skill or special training;
- (t) "wage rate" means the wage rate referred to in section 6.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN RURAL AREAS

3. (1) Save as otherwise provided, the State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under this Act.

Guarantee of rural employment to poor households.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work.

(3) Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case not later than a fortnight after the date on which such work was done.

(4) The Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-section (1), as may be expedient.

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme:

Employment Guarantee Schemes for rural areas.

Provided that until any such Scheme is notified by the State Government, the Annual Action Plan or Perspective Plan for the *Sampoorna Grameen Rozgar Yojana* (SGRY) or the National Food for Work Programme (NFFWP) whichever is in force in the concerned area immediately before such notification shall be deemed to be the action plan for the Scheme for the purposes of this Act.

(2) The State Government shall publish a summary of the Scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such Scheme shall apply.

(3) The Scheme made under sub-section (1) shall provide for the minimum features specified in Schedule I.

5. (1) The State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under this Act.

Conditions for providing guaranteed employment.

(2) The persons employed under any Scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

11 of 1948.

6. (1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:

Wage rate.

Provided that different rates of wages may be specified for different areas.

11 of 1948.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.

Payment of
unemployment
allowance.

7. (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.

(3) The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as—

(a) the applicant is directed by the Gram Panchayat or the Programme Officer to report for work either by himself or depute at least one adult member of his household; or

(b) the period for which employment is sought comes to an end and no member of the household of the applicant had turned up for employment; or

(c) the adult members of the household of the applicant have received in total at least one hundred days of work within the financial year; or

(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year.

(4) The unemployment allowance payable to the household of an applicant jointly shall be sanctioned and disbursed by the Programme Officer or such local authority as the State Government may, by notification, authorise in this behalf.

(5) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment.

(6) The State Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-
disbursement
of
unemployment
allowance in
certain
circumstances.

8. (1) If the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reason beyond his control, he shall report the matter to the District Programme Coordinator and announce such reasons in a notice to be displayed on his notice board and the notice board of the Gram Panchayat and such other conspicuous places as he may deem necessary.

(2) Every case of non-payment or delayed payment of unemployment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government alongwith the reasons for such non-payment or delayed payment.

(3) The State Government shall take all measures to make the payment of unemployment allowance reported under sub-section (1) to the concerned household as expeditiously as possible.

Disentitlement
to receive
unemployment
allowance in
certain
circumstances.

9. An applicant who—

(a) does not accept the employment provided to his household under a Scheme;
or

(b) does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month,

shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

10. (1) With effect from such date as the Central Government may, by notification specify, there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this Act.

Central
Employment
Guarantee
Council.

(2) The headquarters of the Central Council shall be at Delhi.

(3) The Central Council shall consist of the following members to be appointed by the Central Government, namely:—

(a) a Chairperson;

(b) not more than such number of representatives of the Central Ministries including the Planning Commission not below the rank of Joint Secretary to the Government of India as may be determined by the Central Government;

(c) not more than such number of representatives of the State Governments as may be determined by the Central Government;

(d) not more than fifteen non-official members representing Panchayati Raj Institutions, organizations of workers and disadvantaged groups:

Provided that such non-official members shall include two chairpersons of District Panchayats nominated by the Central Government by rotation for a period of one year at a time:

Provided further that not less than one-third of the non-official members nominated under this clause shall be women:

Provided also that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes and Minorities;

(e) such number of representatives of the States as the Central Government may, by rules, determine in this behalf;

(f) a Member-Secretary not below the rank of Joint Secretary to the Government of India.

(4) The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council shall be such as may be prescribed by the Central Government.

11. (1) The Central Council shall perform and discharge the following functions and duties, namely:—

Functions and
duties of
Central
Council.

(a) establish a central evaluation and monitoring system;

(b) advise the Central Government on all matters concerning the implementation of this Act;

(c) review the monitoring and redressal mechanism from time to time and recommend improvements required;

(d) promote the widest possible dissemination of information about the Schemes made under this Act;

(e) monitoring the implementation of this Act;

(f) preparation of annual reports to be laid before Parliament by the Central Government on the implementation of this Act;

(g) any other duty or function as may be assigned to it by the Central Government.

(2) The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for that purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

State
Employment
Guarantee
Council.

12. (1) For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every State Government shall constitute a State Council to be known as the(name of the State) State Employment Guarantee Council with a Chairperson and such number of official members as may be determined by the State Government and not more than fifteen non-official members nominated by the State Government from Panchayati Raj institutions, organizations of workers and disadvantaged groups:

Provided that not less than one-third of the non-official members nominated under this clause shall be women:

Provided further that not less than one third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes and Minorities.

(2) The terms and conditions subject to which the Chairperson and members of the State Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the State Council shall be such as may be prescribed by the State Government.

(3) The duties and functions of the State Council shall include—

(a) advising the State Government on all matters concerning the Scheme and its implementation in the State;

(b) determining the preferred works;

(c) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements;

(d) promoting the widest possible dissemination of information about this Act and the Schemes under it;

(e) monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council;

(f) preparing the annual report to be laid before the State Legislature by the State Government;

(g) any other duty or function as may be assigned to it by the Central Council or the State Government.

(3) The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

13. (1) The Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be prescribed by the State Government to supervise, monitor and oversee the implementation of the Scheme within the district.

Standing
Committee at
district level.

(2) The Standing Committee shall co-opt not more than seven representatives of intermediate panchayats, Gram Panchayats, organization of workers, women's organizations, non-governmental organizations and disadvantaged groups as special invitees.

(3) The functions of the Standing Committee shall be—

(a) to finalise and approve blockwise shelf of projects to be taken up under a programme under the Scheme;

(b) to supervise and monitor the projects taken up at the Block level and district level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(4) The District Programme Coordinator shall assist the Standing Committee in discharging its functions under this Act and any Scheme made thereunder.

14. (1) The Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district.

District
Programme
Coordinator.

(2) The District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules made thereunder.

(3) The functions of the District Programme Coordinator shall be—

(a) to assist the Standing Committee constituted under sub-section (1) of section 13;

(b) to consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Standing Committee;

(c) to accord necessary sanction and administrative clearance, wherever necessary;

(d) to coordinate with the Programme Officers functioning within his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act;

(e) to review, monitor and supervise the performance of the Programme Officers;

(f) to conduct periodic inspection of the works in progress; and

(g) to redress the grievances of the applicants.

(4) The State Government shall delegate such administrative and financial powers to the District Programme Coordinator as may be required to enable him to carry out his functions under this Act.

(5) The Programme Officer appointed under sub-section (1) of section 15 and all other officers of the State Government and local authorities and bodies functioning within the district shall be responsible to assist the District Programme Coordinator in carrying out his functions under this Act and the Schemes made thereunder.

(6) The District Programme Coordinator shall prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand

for unskilled manual work in the district and the plan for engagement of labourers in the works covered under the Scheme and submit it to the Standing Committee of the district panchayat.

Programme
Officer.

15. (1) For every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block.

(2) The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.

(3) The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.

(4) The functions of the Programme Officer shall include—

(a) monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;

(b) sanctioning and ensuring payment of unemployment allowance to the eligible poor households;

(c) ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

(d) ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;

(e) dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and

(f) any other work as may be assigned to him by the District Programme Coordinator or the State Government.

(5) The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.

(6) The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.

Responsibilities
of the Gram
Panchayats.

16. (1) The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a Scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.

(2) A Gram Panchayat may take up any project under a Scheme within the area of the Gram Panchayat as may be sanctioned by the Programme Officer.

(3) Every Gram Panchayat shall, after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises.

(4) The Gram Panchayat shall forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval prior to the commencement of the year in which it is proposed to be executed.

(5) The Programme Officer may allot at least fifty per cent. of the works in terms of its cost under a Scheme to be implemented through the Gram Panchayats.

(6) The Programme Officer shall supply each Gram Panchayat with—

(a) the muster rolls for the works sanctioned to be executed by it; and

(b) a list of employment opportunities available elsewhere to the residents of the Gram Panchayat.

(7) The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(8) The works taken up by a Gram Panchayat under a Scheme shall meet the required technical standards and measurements.

17. (1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat.

Social audit of work by Gram Sabha.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

(3) The Gram Panchayat shall make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

18. The State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Responsibilities of State Government in implementing Scheme.

19. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

Grievance redressal mechanism.

CHAPTER V

ESTABLISHMENT OF NATIONAL AND STATE EMPLOYMENT GUARANTEE FUNDS AND AUDIT

20. (1) The Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this Act.

National Employment Guarantee Fund.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

(3) The amount standing to the credit of the National Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the Central Government.

21. (1) The State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of implementation of the Scheme.

State Employment Guarantee Fund.

(2) The amount standing to the credit of the State Fund shall be expended in such manner and subject to such conditions and limitations as may be prescribed by the State Government for the purposes of implementation of this Act and the Schemes made thereunder and for meeting the administrative expenses in connection with the implementation of this Act.

(3) The State Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

22. (1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government shall meet the cost of the following, namely:—

Funding pattern.

(a) the amount required for payment of wages for unskilled manual work under the Scheme;

(b) up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) such percentage of the total cost of the Scheme as may be determined by the Central Government towards the administrative expenses, which may include the salary and allowances of the Programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and such other item as may be decided by the Central Government.

(2) The State Government shall meet the cost of the following, namely:—

(a) the cost of unemployment allowance payable under the Scheme;

(b) one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) the administrative expenses of the State Council.

Transparency
and
accountability.

23. (1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilization and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

(4) All payments of wages in cash and unemployment allowances shall be made directly to the person concerned and in the presence of independent persons of the community on pre-announced dates.

(5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

(6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.

Audit of
accounts.

24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels.

(2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.

CHAPTER VI

MISCELLANEOUS

Penalty for
non-
compliance.

25. Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

Power to
delegate.

26. (1) The Central Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules) may, in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or such officer subordinate to the Central Government or the State Government as it may specify in such notification.

(2) The State Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules and Schemes) may, in such circumstances and subject to such conditions and limitations, be exercisable also by such officer subordinate to it as it may specify in such notification.

27. The Central Government may give such directions as it may consider necessary to the State Government for the effective implementation of the provisions of this Act.

Power of Central Government to give directions.

28. The provisions of this Act or the Schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law:

Provided that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Act under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this Act, the State Government shall have the option of implementing its own enactment:

Act to have overriding effect.

Provided further that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the State would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented.

29. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend Schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to have been amended accordingly.

Power to amend Schedules.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

30. No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything which is in good faith done or intended to be done under this Act or the rules or Schemes made thereunder.

Protection of action taken in good faith.

31. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without the prejudice of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10;

(b) the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council, under sub-section (4) of section 10;

(c) the manner in which and the conditions and limitations subject to which the National Fund shall be utilized under sub-section (3) of section 20;

(d) the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22;

(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

32. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7;

(b) the procedure for payment of unemployment allowance under sub-section (6) of section 7;

(c) the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12;

(d) the number of members of the Standing Committee at district level and their terms and conditions of their appointment under sub-section (1) of section 13;

(e) the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19;

(f) the manner in which and the conditions and limitations subject to which the State Fund shall be utilized under sub-section (2) of section 21;

(g) the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21;

(h) the manner of maintaining books of account of employment of labourers and the expenditure under sub-section (2) of section 23;

(i) the arrangements required for proper execution of Schemes under sub-section (3) of section 23;

(j) the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24;

(k) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the State Government by rules.

Laying of
rules and
Schemes.

33. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall have thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule or Scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

Power to
remove
difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF A RURAL EMPLOYMENT GUARANTEE SCHEME

1. The focus of the Scheme shall be on the following works in their order of priority:—
 - (i) water conservation and water harvesting;
 - (ii) drought proofing (including afforestation and tree plantation);
 - (iii) irrigation canals including micro and minor irrigation works;
 - (iv) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes;
 - (v) renovation of traditional water bodies including desilting of tanks;
 - (vi) land development;
 - (vii) flood control and protection works including drainage in water logged areas;
 - (viii) rural connectivity to provide all-weather access; and
 - (ix) any other work which may be notified by the Central Government.
2. Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.
3. The works taken up under the scheme shall be in rural areas.
4. The State Council shall prepare a list of preferred works for different areas based on their ability to create durable assets.
5. The Scheme shall be subject to appropriate arrangements as may be laid down by the State Government under the rules issued by it for proper maintenance of the public assets created under the Scheme.
6. Under no circumstances shall the labourers be paid less than the wage rate.
7. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.
8. The schedule of rates of wages for unskilled labourers shall be so fixed that a person working diligently for seven hours would normally earn a wage equal to the wage rate.
9. The cost of material component of projects including the wages of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty per cent. of the total project costs.
10. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applied for employment under the Scheme to do work of any type permissible under it.
11. The Scheme shall not permit engaging any contractor for implementation of the projects under it.
12. As far as practicable, a task funded under the Scheme shall be performed by using manual labour and not machines.
13. Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.
14. Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.

15. The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the Scheme.

16. All accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.

17. A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the Scheme.

SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED RURAL EMPLOYMENT UNDER A SCHEME AND MINIMUM ENTITLEMENTS OF LABOURERS

1. The adult members of every household who—

(i) reside in any rural areas; and

(ii) are willing to do unskilled manual work,

may submit their names, age and the address of the household to the Gram Panchayat in the jurisdiction of which they reside for registration of their household for issuance of a job card.

2. It shall be the duty of the Gram Panchayat to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the Scheme.

3. The registration made under paragraph 2 shall be for such period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.

4. Every adult member of a registered household whose name appears in the job card shall be entitled to apply for unskilled manual work under the Scheme.

5. All registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of one hundred days per household in a given financial year.

6. The Programme Officer shall ensure that every applicant referred to in paragraph 5 shall be provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later.

7. Applications for work must be for at least fourteen days of continuous work.

8. There shall be no limit on the number of days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.

9. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.

10. The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.

11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Gram Panchayat Office.

12. As far as possible, employment shall be provided within a radius of five kilometres of the village where the applicant resides at the time of applying.

13. A new work under the Scheme shall be commenced only if—

(a) at least fifty labourers become available for such work; and

(b) the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation.

14. In cases the employment is provided outside such radius, it must be provided within the Block, and the labourers shall be paid ten per cent. of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Programme Officer shall inform the District Programme Coordinator in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Programme Coordinator shall, in his Annual Report to the State Council, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. The Gram Panchayat shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Gram Panchayat.

21. The Gram Panchayat shall send such list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Programme Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer and at such other places as the Programme Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Gram Panchayat is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case where at least twenty women are employed at a work site, provision shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Payment of Wages Act, 1936 (4 of 1936).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Equal Remuneration Act, 1976 (25 of 1976), shall be complied with.

STATEMENT OF OBJECTS AND REASONS

Productive absorption of under-employed and surplus labour force in the rural sector has been a major focus of planning for rural development. In order to provide direct supplementary wage-employment to the rural poor through public works, many programmes were initiated by the Government of India, namely, National Rural Employment Programme (NREP), Rural Landless Employment Guarantee Programme (RLEGP) and Jawahar Rozgar Yojana (JRY). Currently, Sampoorna Gramin Rozgar Yojana (SGRY) is being implemented all over the country with the objective to provide supplementary wage employment in rural areas, create durable rural infrastructure and to ensure food security. Though the SGRY is providing some relief to the rural poor, its reach has been inadequate in view of the dimension of the unemployment in rural areas. It has been observed that the scale of employment generation under SGRY in 2002-03 and 2003-04 was barely adequate to provide on an average 20 days of employment to each Below Poverty Line (BPL) household in the rural areas. Secondly, there is no guarantee that employment will be available to the rural households on demand as SGRY is an allocation based programme. The situation of unemployment has been compounded by the absence of any social security mechanism. There is, therefore, an urgent need to ensure at least some minimum days of employment in the shape of manual labour to every household in the rural areas. Recognizing the urgent need to ensure a certain minimum days of wage-employment, the United Progressive Alliance (UPA) Government has declared in its National Common Minimum Programme (NCMP) that it ".....will immediately enact a National Employment Guarantee Act. This will provide a legal guarantee for at least 100 days of employment, to begin with, on asset-creating public works programmes every year at minimum wages for at least one able-bodied person in every rural, urban poor and lower middle class household." It is also necessary to empower the poor in the rural areas by appropriate enactment so that they can demand work on the strength of this legal entitlement.

2. The proposed legislation constitutes a pioneering endeavour to secure wage employment for the poor households in the rural areas as a guaranteed entitlement on this scale. It takes into account the experience gained under the Employment Guarantee Scheme in Maharashtra. Considering that a programme of this kind is being contemplated on such a massive scale for the first time, it has to be necessarily implemented in phases so as to eventually cover all the rural areas of the country, subject to the economic capacity of the Central and State Governments.

3. In view of the above, it is proposed to enact a new legislation through the National Rural Employment Guarantee Bill, 2004. The salient features of the proposed legislation are the following :—

(i) The objective of the legislation is to enhance the livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment to every poor household whose adult members volunteer to do unskilled manual work.

(ii) The State Government shall, in such rural areas in the State and for such period as may be notified by the Central Government, provide to every poor household guaranteed wage employment in unskilled manual work at least for a period of one hundred days in a financial year in accordance with the provisions made in the legislation.

(iii) Every State Government shall, within six months from the date of commencement of this legislation, prepare a scheme to give effect to the guarantee proposed under the legislation.

(iv) The one hundred days of employment under the legislation will be provided at the wage rate to be specified by the Central Government for the purpose of this legislation. Until such time a wage rate is specified by the Central Government for an area, the minimum wage rate fixed by the State Government under the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area.

(v) If an eligible applicant is not provided work as per the provisions of this legislation within the prescribed time limit, it will be obligatory on the part of the State Government to pay unemployment allowance at the prescribed rate.

(vi) A Central Employment Guarantee Council at the Central level and State Employment Guarantee Councils at the State level in all States where the legislation is made applicable will be constituted for review, monitoring and effective implementation of the legislation in their respective areas.

(vii) The Standing Committee of the District Panchayat, District Programme Coordinator, Programme Officers and Gram Panchayats have been assigned specific responsibilities in implementation of various provisions of the legislation at the Gram Panchayat, Block and District levels.

(viii) The Central Government shall establish a fund to be called 'National Employment Guarantee Fund' for the purposes of this legislation. Similarly, the State Governments may constitute State Employment Guarantee Funds.

(ix) Provisions for transparency and accountability, audit, establishment of grievance and redressal mechanisms and penalty of non-compliance are also envisaged.

(x) Provisions for Minimum features of Rural Employment Guarantee Scheme and conditions for guaranteed Rural Employment under a scheme and minimum entitlements of labourers have been laid.

4. The Notes on clauses explain in detail the various provisions contained in the Bill.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 17th December, 2004

RAGHUVANSH PRASAD SINGH.

Notes on clauses

Clause 1.—This clause gives the short title of the Bill and the area to which it extends. Sub-clause (3) provides that the proposed legislation shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of the proposed legislation shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area.

Clause 2.—This clause contains definition of certain terms used in the Bill. The definitions of “adult”, “applicant”, “Block”, “Central Council”, “District Programme Coordinator”, “household”, “implementing agency”, “minimum wage”, “National Fund”, “notification”, “poor household”, “preferred work”, “prescribed”, “Programme Officer”, “Project”, “Rural area”, “Scheme”, “State Council”, “unskilled manual work” and “wage rate” have been given in this clause. The expression “poor household” means a household living during the relevant financial year below the poverty line and includes the households of all primitive tribal groups as approved by the Ministry of the Central Government dealing with Tribal Affairs.

Clause 3.—This clause describes the guarantee of employment to poor rural households. As per this Clause, the State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under the proposed legislation. This clause further provides that every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work on a weekly basis or in any case not later than a fortnight after the date on which such work was done. This clause also provides that the Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-clause (1), as may be expedient.

Clause 4.—This clause provides that for the purposes of giving effect to the provisions of clause 3, every State Government shall, within six months from the date of commencement of the proposed legislation, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under the proposed legislation and in the Scheme. This clause also requires that the State Governments shall provide adequate publicity to the Scheme in the areas where it is to be implemented. The minimum features of the Scheme are specified in Schedule I.

Clause 5.—This clause provides that the State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under the proposed legislation. The persons employed under any Scheme made under the proposed legislation shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

Clause 6.—This clause defines the wage rate for the purpose of this Bill. This clause also provides that notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government, may, by notification, specify the wage rate for the purposes of the proposed legislation, which may be different for different areas. Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area.

Clause 7.—This clause lays down the terms and conditions for payment of unemployment allowance. If an applicant for employment under the Scheme is not provided employment as per the provisions of the proposed legislation within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this clause. The unemployment allowance payable shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council, provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the relevant financial year and not less than one-half of the wage rate for the remaining period of the financial year. This clause further lays down the conditions under which the liability of the State Government to pay unemployment allowance to a household during any financial year shall cease. It also provides for the mechanism for payment of unemployment allowance.

Clause 8.—This clause provides for the measures to be taken if the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reasons beyond his control.

Clause 9.—This clause lays down the conditions which would make an applicant ineligible to claim the unemployment allowance payable under the proposed legislation for a period of three months. The applicant will, however, be eligible to seek employment under the Scheme at any time including that period.

Clause 10.—This clause provides that the Central Government shall, by notification, constitute a Council to be called the Central Employment Guarantee Council to discharge the functions and perform the duties, assigned to it by or under the proposed legislation. This clause further provides for the composition of the Central Council and the terms and conditions of appointment of the Chairperson and other members and the time, place and procedure of the meetings of the Central Council.

Clause 11.—This clause lays down the functions and duties of the Central Council.

Clause 12.—This clause provides that the State Government shall, by notification, constitute a State Council to be known as the(name of the State) State Employment Guarantee Council for the purposes of regular monitoring and reviewing the implementation of the proposed legislation at the State level. This clause further provides for the composition of the State Council and the terms and conditions of their appointment of the Chairperson and other members, the time, place and procedure of the meetings of the State Council and its functions and duties.

Clause 13.—This clause provides that the Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be laid down by rules by the State Government, to supervise, monitor and oversee the implementation of the Scheme within the District. This clause further provides for the co-option of members, the functions of the Standing Committee and the role of the District Programme Coordinator to assist the Standing Committee in discharging its functions under the proposed legislation and any scheme made thereunder.

Clause 14.—This clause provides that the Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district. It further provides the responsibilities and functions of the District Programme Coordinator. It also prescribes various modalities to facilitate effective functioning of the District Programme Coordinator.

Clause 15.—This clause provides that for every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State

Government, as the Programme Officer for implementing the Scheme in that Block. It further lays down the responsibilities and functions of the Programme Officers.

Clause 16.—This clause sets out the responsibilities of the Gram Panchayat in implementation of the provisions of the proposed legislation and the Scheme made there under. It also defines the role of the Programme Officer vis-à-vis the Gram Panchayat.

Clause 17.—This clause provides that the Gram Sabha shall monitor the execution of works within the Gram Panchayat and conduct regular social audit of all projects under the scheme taken up within the Gram Panchayat. The Gram Panchayat shall make available all relevant documents to the Gram Sabha for the purpose of conducting the social audit.

Clause 18.—This clause provides that the State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Clause 19.—This clause relates to the grievance redressal mechanisms under the proposed legislation. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

Clause 20.—This clause provides that the Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of the proposed legislation. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund. This Clause further provides that the amount standing to the credit of the National Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the Central Government, by rules.

Clause 21.—This clause provides that the State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of the implementation of the Scheme. It further lays down the conditions for operationalisation and functioning of the State Employment Guarantee Fund.

Clause 22.—This clause lays down the funding pattern for implementation of the proposed legislation and defines the liabilities of the Centre and the State Government.

Clause 23.—This clause provides for various mechanisms for ensuring transparency and accountability in the implementation of the Scheme under the proposed legislation.

Clause 24.—This clause provides for arrangements to be put in place for audit of accounts of the Scheme at all levels.

Clause 25.—This clause relates to penalty for non-compliance. It provides that any person who contravenes the provisions of the proposed legislation shall, on conviction, be liable to a fine which may extend to one thousand rupees.

Clause 26.—This clause seeks to empower the Central Government to delegate its powers (except the power to make rules) to the State Governments or such officers of the Central Government or State Governments. Such delegation shall be subject to the conditions and limitation as may be imposed by the Central Government.

Clause 27.—This clause seeks to empower the Central Government to give directions to the State Governments for effective implementation of the provisions of the proposed legislation.

Clause 28.—This clause provides that the proposed legislation will have over-riding effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of such law. It further provides that where a State enactment exists or is enacted to provide employment guarantee for unskilled

manual work to rural households consistent with the provisions of this Bill under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this legislation, the State Government shall have the option of implementing its own enactment.

Clause 29.—This clause seeks to empower the Central Government to amend Schedule I or Schedule II if that Government is satisfied that it is necessary or expedient to do so.

Clause 30.—This clause seeks to provide for protection of action taken in good faith by the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code.

Clause 31.—This clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) thereof enumerates the matters in respect of which such rules may be made. The rule making under this clause is subject to previous publication.

Clause 32.—This clause empowers the State Government to make rules to carry out provisions of the proposed legislation. Such rules shall be consistent with the Act and the rules made by the Central Government. The rule making under this clause is subject to previous publication.

Clause 33.—This clause provides for laying of rules made by the Central Government before each House of Parliament and the rules and schemes made by the State Government before each House of the State Legislature.

Clause 34.—This clause empowers the Central Government to remove difficulties, if any, arising in giving effect to the provision of the proposed legislation by order. Such orders can be issued before the expiry of three years from the commencement of the proposed legislation.

Schedule I.—This Schedule lays down the minimum features of a Rural Employment Guarantee Scheme to be made under the provisions of the proposed legislation.

Schedule II.—This Schedule lays down the conditions for Guaranteed Rural Employment under a Scheme and the minimum entitlements of labourers.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that a State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under the proposed legislation. This will require a large number of works to be taken up under the Scheme to be prepared in each State where the legislation is to be implemented. This will entail expenditure on execution of works on material and wage components of the projects. The wage component of projects will be entirely borne by the Central Government while seventy-five per cent. of the cost of material components (including the wages of skilled and semi-skilled workers) would be borne by the Central Government. The expenditure under the Scheme will depend on the number of persons reporting for work, wage rate and the composition of the wage and material components of the works. Assuming that wage and material components would be in the ratio of sixty is to forty and the average wage rate would be sixty rupees per day, the cost of generating employment is estimated to be one hundred rupees per person per diem. Hence, the cost of providing one hundred days of employment to a poor household in a financial year is estimated to be ten thousand rupees. If the whole country is covered under the legislation, the total requirement of funds on material and wage components including the State share of funds is estimated to be approximately thirty-eight thousand six hundred crore rupees of which the Central share will be thirty-four thousand seven hundred forty crores rupees (this does not include administrative expenses). Although the total expenditure would depend on the extent of coverage of areas of the country under the proposed legislation, it has estimated that if the legislation is extended to 150 districts where the National Food for Work Programme is being implemented, the requirement of central funds will be approximately eight thousand nine hundred eighty-four crore seventy lakh rupees. The State Government will bear twenty five per cent. of the material component (including the wages of skilled and semi-skilled workers). Since the employment is to be provided every year this expenditure would be a recurring expenditure.

Clause 6 of the Bill provides that the Central Government may, by notification, specify the wage rate for the purposes of the proposed legislation which may be different for different areas. Until such time the wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area. The wages under this legislation are to be paid to the labourers at the wage rate. At present, the minimum wage rates for agricultural labourers in the States vary from twenty-five rupees to one hundred thirty-five rupees. For the purpose of financial estimates, an average wage rate of sixty rupees per person per diem has been assumed. While fixing the wage rate, the Central Government may take into consideration the criteria and factors in addition to and other than those provided in the Minimum Wages Act, 1948. The financial liability of the Central Government will vary according to the wage rate fixed for the purposes of the proposed legislation.

Clause 7 of the Bill provides that if an applicant for employment under the Scheme made under the proposed legislation is not provided employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance. The unemployment allowance shall be paid to the applicants of a household subject to the entitlement of the household as a unit at such rate as may be specified by the State Government, by notification, in consultation with the State Council provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the relevant financial year and not less than one-half of the wage rate for the remaining period of that year. The liability of the State Government to pay unemployment

allowance to a household during any financial year shall cease as soon as the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year. The entire expenditure on account of unemployment allowance is to be borne by the State Government. However, the principal objective of the legislation is to guarantee wage-employment to the rural poor household and adequate provisions have been made enabling the State Government to formulate an appropriate Scheme in such a manner that the need for payment of unemployment allowance will be minimum.

Clause 10 of the Bill provides that there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this legislation. The Council shall have both official and non-official members. The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings of the Central Council shall be such as may be prescribed by the Central Government. The Central Government will bear all expenses of the Central Council which will be of a recurring nature and would be a part of the administrative costs permissible under the Scheme.

Clause 12 of the Bill provides that the State Government shall constitute a Council to be called the(name of the State) State Employment Guarantee Council for the purposes of regular monitoring and reviewing the implementation of this legislation at the State level. The Council shall have both official and non-official members. The terms and conditions subject to which the Chairperson and other members of the State Council may be appointed and the time, place and procedure of the meetings of the State Council shall be such as may be prescribed by the State Government. The State Government will bear all expenses of the State Council which will be of a recurring nature. In so far the State Councils for Union territories are concerned, the Central Government will have to bear the expenditure.

Clause 13 of the Bill provides that the Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be prescribed by the State Government to supervise, monitor and oversee the implementation of the Scheme within the district. This is the normal function of the District Panchayats and expenditure for this purpose would be borne by the District Panchayats.

Clause 15 of the Bill provides that for every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block. The Programme Officer would be a crucial person for the implementation of the Scheme. The salary and allowances of the Programme Officer and his supporting staff would be borne by the Central Government out of the admissible administrative expenses, which will be a recurring expenditure.

Clauses 16 and 17 of the Bill lay down the role and responsibilities of the Gram Panchayats in implementation of the Scheme made under this legislation. In order to effectively carry out their responsibilities, the capacity building of the Gram Panchayats will be needed and its expenditure will be borne by the Central Government from the funds provided for administrative expenses.

Clause 18 of the Bill provides that the State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme. The cost of the staff support to the Programme Officers will be borne by the Central Government while all other incidental expenses, if any, needed to operationalise this clause will be borne by the State Government.

Clause 20 of the Bill provides that the Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this

legislation. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

Clause 21 of the Bill provides that the State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of the implementation of the Scheme.

Clause 22 of the Bill provides the funding pattern of various costs of implementation of the proposed legislation Sub-clause (1) provides that the Central Government shall meet the costs of wages for unskilled manual work under the Scheme, upto three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provision that the material component does not exceed 40 per cent under the projects, and such percentage of the total cost of Scheme as may be determined by the Central Government towards administrative expenses, which may include the salary and allowances of the Programme Officers and their supporting staff, the administrative expenses of the Central Council, various facilities to be provided to the labourers and such other items as may be decided by the Central Government. It is estimated that if two percent of the programme cost is earmarked for administrative expenses, it would be adequate for effective implementation of the programme. Sub-clause (2) provides that the State Government shall meet the costs of unemployment allowance payable under the Scheme, one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provision that the material component does not exceed 40 per cent. under the projects, and the administrative expenses of the State Council. These costs will be of a recurring nature.

Clause 28 of the Bill provides that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Bill under which the entitlement of the Households is not less than and the conditions of employment are not inferior to what is guaranteed under this Bill, the State Government shall have the option of implementing its own enactment. It further provided that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the state would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented. It is estimated that there will be no additional financial liability for the Central Government under this clause.

Paragraph 24 of Schedule II of the Bill provides that if any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme. Paragraph 25 of Schedule II further provides that where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work. The expenditure on such medical expenses, hospitalization and daily wages would be borne by the Central Government within the limit fixed for admissible administrative expenses and will be a recurring expenditure.

Paragraph 26 of Schedule II provides that if a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be. The expenditure on such payments would be borne by the Central Government within the limit fixed for admissible administrative expenses and will be a recurring expenditure.

Paragraph 27 of Schedule II provides that the facilities of safe drinking water, shade for children and periods of rest, first aid box with adequate material for emergency treatment for minor injuries and for other health hazards connected with the work being performed shall be

provided at the work site. These are normal amenities to be provided by any employer and as such State Government would be required to provide sufficient safeguards and meet consequential expenses, which will be of a recurring nature.

Paragraphs 28 of Schedule II of the Bill provides that in case where at least twenty women are employed at a worksite, provision shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises. Paragraph 29 provides further that the person deputed under paragraph 28 shall be paid wage rate. The expenditure on such payments would be borne by the Central Government under the admissible unskilled wage component and will be of a recurring expenditure.

Paragraph 33 of Schedule II of the Bill provides that if any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, within the limit fixed for admissible administrative expenses, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government. The expenditure on such payments would be borne by the Central Government and will be of a recurring expenditure.

The Central Government will have to bear the expenditure in relation to implementation of the proposed legislation in so far as the Union territories are concerned.

Apart from the estimates given above, as the exact expenditure which will be involved in implementing the proposed legislation will depend upon the areas in which the Schemes will be implemented and these are required to be decided after the Bill is passed, it is not practicable to make an exact estimate of the recurring and non-recurring expenditure for the financial year 2004-05.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 4 of the Bill empowers every State Government to make a scheme for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under such scheme and whose adult members by application volunteer to do unskilled manual work. The scheme is intended to give effect to the provisions of clause 3 of the Bill. Sub-clause (2) of clause 4 requires that the State Government shall publish a summary of the scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which the scheme shall apply. Sub-clause (3) of clause 4 provides that the scheme should have the minimum features as specified in Schedule I of the Bill.

2. Sub-clause (1) of clause 29 of the Bill empowers the Central Government to amend Schedule I and Schedule II, by notification, if it considers it necessary or expedient to do so. Every notification issued under this sub-clause is required to be laid before each House of Parliament.

3. Sub-clause (1) of clause 31 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, *inter alia*, relates to the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10, the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the Central Council, under sub-section (4) of section 10, the manner in which and the conditions and limitations subject to which the National Fund shall be utilized under sub-section (3) of section 20 and the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22.

4. Sub-clause (1) of clause 32 of the Bill empowers the State Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, *inter alia*, relates to the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7, the procedure for payment of unemployment allowance under sub-section (6) of section 7, the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12, the number of members of the Standing Committee at district level and their terms and conditions of their appointment under sub-section (1) of section 13, the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19, the manner in which and the conditions and limitations subject to which the State Fund shall be utilized under sub-section (2) of section 21, the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21, the manner of maintaining books of accounts of employment of labourers and the expenditure under sub-section (2) of section 23, the arrangements required for proper execution of Schemes under sub-section (3) of section 23 and the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24.

5. The scheme made by the State Government is required to be laid before the State Legislature. The rules which may be made by the Central Government or the State Government under the proposed legislation shall be subject to previous publication and shall be required to be laid before the Parliament and the State Legislature respectively.

6. The aforesaid matters in respect of which schemes or rules may be made or notification may be issued under clause 29 relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA,
Secretary-General.